

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION

MICHAEL PALMA,

*Plaintiff,*

V.

STATE OF TEXAS; et al.

*Defendants.*

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C.A. NO. 4:21-CV-001210

**HCAD DEFENDANTS' RESPONSE TO PLAINTIFF'S OBJECTIONS  
TO MAGISTRATE JUDGE'S REPORT AND RECOMMENDATION**

Defendants Harris County Appraisal District (HCAD), Roland Altinger in his official capacity (also referred to herein as HCAD), the Harris County Appraisal Review Board (ARB), and Ronnie Thomas in his official capacity as the Chairman of the ARB (also referred to as ARB) (all collectively referred to as the HCAD Defendants) will respond to Plaintiff Michael Palma's objections [Dkt. 28] to the Magistrate Judge's report and recommendation to dismiss this case with prejudice [Dkt. 27].

For all of the reasons articulated in Judge Lane's well-reasoned Report and Recommendation, Plaintiff's Complaint states no claim against HCAD over which this Court has federal subject-matter jurisdiction and, thus, HCAD Defendants' motion to dismiss [Dkt. 12] should be GRANTED, Plaintiff's motions (Dkt. 6, 20, 21) DENIED, and this case DISMISSED WITH PREJUDICE pursuant to 28 U.S.C. § 1915(e)(2).

Plaintiff's claims can also be dismissed on additional or alternative grounds set forth in HCAD's motion, at ¶¶ 10-12. Indeed, the lack of merit of this case is so glaring that deficiency is jurisdictional, not merely a failure to state a claim. *See Williamson v. Tucker*, 645 F.2d 404,

415 (5th Cir. 1981) (construing *Bell v. Hood*, 327 U.S. 678 (1945) to authorize Rule 12(b)(1) jurisdictional dismissals where the federal claim is “clearly immaterial or insubstantial” having “no plausible foundation”).

Finally, the prayer of Palma’s objection – “That this court answer the three questions asked, nothing more, nothing less” (p. 11) – itself defeats subject matter jurisdiction. The federal courts can only decide cases and controversies, not render advisory opinions, *see Steel Co. v. Citizens for a Better Env’t*, 523 U.S. 83, 101 (1998) (citing *Muskrat v. United States*, 219 U.S. 346, 362 (1911)), and particularly an advisory opinion on state tax law.

Accordingly, HCAD Defendants request the Court to adopt the Magistrate Judge’s recommendation and dismiss all claims against these Defendants WITH PREJUDICE.

Respectfully submitted,

VIADA & STRAYER

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ATTORNEYS FOR DEFENDANTS HARRIS COUNTY APPRAISAL DISTRICT, ROLAND ALTINGER IN HIS OFFICIAL CAPACITY, HARRIS COUNTY APPRAISAL REVIEW BOARD, AND RONNIE THOMAS IN HIS OFFICIAL CAPACITY AS THE CHAIRMAN OF THE ARB

**CERTIFICATE OF SERVICE**

I certify that all parties and/or counsel of record have been served a true and correct copy of the foregoing by email or by electronic submission through the Electronic Case Files System of the Southern District of Texas on October 26, 2021.

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